

UNITED STATES BANKRUPTCY COURT
DISTRICT OF MINNESOTA

RECEIVED

04 AUG -5 PM 1:05

In Re:

Bk No. 4-32735

U.S. BANKRUPTCY COURT
ST. PAUL, MN

Bradley R. and Judith N. Thayer,

Chapter 7

Debtors,

Adv. No. 04-3326

Kristen Thayer,

COMPLAINT TO OBJECT
TO DISCHARGE
[11 U.S.C §523(a)(15)]

Plaintiff,

v.

Bradley R. Thayer,

Defendant.

Plaintiff Kristen Thayer, alleges as follows:

JURISDICTIONAL ALLEGATIONS

1. This adversary proceeding arises out of and is related to the above-captioned case pending before this United States Bankruptcy Court; therefore, this court has jurisdiction pursuant to 28 U.S.C. §§157 and 1334. The cause of action set forth herein concerns the dischargeability of debts pursuant to 11 U.S.C. §523(a)(5) or in the alternative §523(a)(15) and, as such constitutes a "core" proceeding under 28 U.S.C. §157(b)(2).

2. Venue is based on 28 U.S.C. §§1408 and 1409.

CAUSE OF ACTION

3. This bankruptcy case was commenced by filing on May 5, 2004 of a petition under Chapter 7 of Title 11 of the United States Code.

1

4. Plaintiff is the former spouse of Debtor, Bradley Thayer. A Judgment and Decree of Dissolution was filed on January 25, 1996 in the State of Minnesota, County of Washington Court File Number F5-95-4500, a copy of which is attached as Exhibit A. Debtor Bradley Thayer is identified in the Decree as "Respondent."

5. The District Court issued an Order filed August 19, 2002, ordering Debtor Bradley Thayer to make payment to Plaintiff in the amount of \$2,000.00 for Plaintiff's attorneys fees due to Debtor Bradley Thayer's failure to comply with the Court's Order to cooperate with a court-ordered custody evaluation, his failure to answer Petitioner's discovery requests, which unreasonably contributed to the costs of the proceedings. The Court found that Respondent had the ability to pay Petitioner's attorneys fees. A copy of said Order is attached hereto as Exhibit B.

6. Attached as Exhibit C is a copy of the Judgment entered against Debtor Bradley Thayer in the amount of \$2,000.00, dated November 2, 2003.

7. Debtor Bradley Thayer has failed to comply with the District Court's Order to pay attorneys fees.

8. Discharging this debt would result in unfair and detrimental consequences to Plaintiff and unfair and unjust enrichment to Debtor. Plaintiff is entitled to relief under 11 U.S.C. §523(a)(5) or in the alternative §523(a)(15).

WHEREFORE, Plaintiff prays that this Court enter judgment as follows:


1. That Debtor not be permitted to discharge the debt owed to Plaintiff in the amount of \$2,000.00 plus interest;

2. Plaintiff shall be entitled to enforce the terms of the District Court's Order filed on August 19, 2002 in the State of Minnesota, County of Washington Court File Number F5-95-4500, with respect to payment of certain debts by Debtor;

3. An award of costs and attorneys fees incurred in this suit; and

4. Such other and further relief as this Court deems necessary and proper.

Dated: 8-5, 2004


Kristen Thayer, Pro Se
2002 Clark Street
Maplewood, MN 55117

10290.Bkey Compl.

STATE OF MINNESOTA
COUNTY OF WASHINGTON

DISTRICT COURT
TENTH JUDICIAL DISTRICT
FAMILY COURT DIVISION

In Re the Marriage of:

Court File: F5-95-4500
Case Type: Dissolution

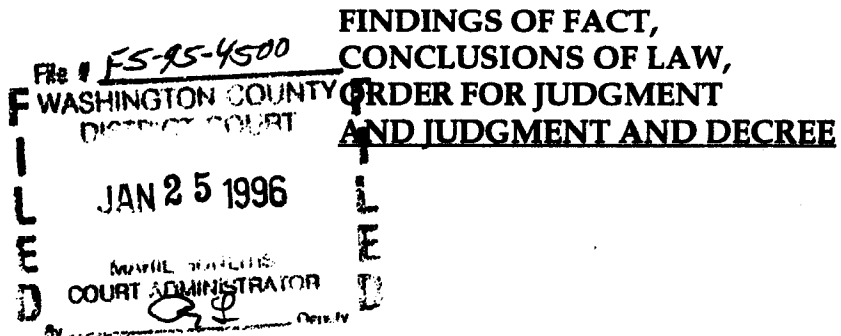
Kristen Lee Thayer,

Petitioner,

vs.

Bradley Ryan Thayer,

Respondent.



The above entitled matter came on for final hearing before the Honorable

Donald J. Vannon January 25, 1996, at the _____

_____. The Court having heard all of the evidence adduced by and on behalf of the Petitioner, and the Court having jurisdiction over the parties on the subject matter of this proceeding, and the Court being fully advised in the premises, makes the following:

FINDINGS OF FACT

I.

The true and correct name of the Petitioner is Kristen Lee Thayer. Petitioner is 28 years of age, having been born on January 25, 1967. Petitioner resides at 7554 Homestead Avenue South in the City of Cottage Grove, County of Washington, State of Minnesota 55106. Petitioner's Social Security Number is 475-66-5198. Petitioner was previously known by the name of Kristen Lee Hummel which she

does not wish to have restored. Petitioner is represented in this proceeding by Steven A. Shaughnessy, Esq., of Shaughnessy, Warren & Shaughnessy, P.A., 402 Park National Bank Building, 5353 Wayzata Boulevard, Minneapolis, Minnesota 55416.

II.

The true and correct name of the Respondent is Bradley Ryan Thayer. The Respondent is 32 years of age, having been born on August 13, 1962. The Respondent presently resides at 832 Wentworth Avenue, No. 10, in the City of South St. Paul, State of Minnesota 55075. Respondent's Social Security Number is 468-86-4842. Respondent has been represented in this proceeding by Carol A. Peterson, Esq., and Holly S.A. Eng, Esq., Dorsey & Whitney P.L.L.P., Pillsbury Center South, Suite 1300, 220 South Sixth Street, Minneapolis, Minnesota 55402.

III.

For more than 180 days immediately preceding the commencement of this action, the Petitioner has resided within the County of Washington, State of Minnesota.

IV.

The parties were married on May 30, 1986, in the City of Montrose, State of California, and ever since that time have been, and now are, husband and wife.

V.

There has been born as issue of this marriage one minor child, namely Amanda Jo Thayer, who was born January 30, 1987, and is presently eight years old.

VI.

Petition is not now pregnant.

VII.

This is a proceeding for the dissolution of marriage. There has been an irretrievable breakdown of the marriage relationship of the parties within the meaning of Minn. Stat. § 518.06.

VIII.

To the best of the Petitioner's knowledge, no separate proceeding for dissolution of marriage or legal separation has been commenced or is pending in this or any other jurisdiction, within the State of Minnesota.

IX.

Petitioner and Respondent are fit and proper persons to have care, custody and control of the parties' minor child and it would be in the best interests of the minor child that the parties have joint legal custody and Petitioner have primary physical custody of the minor child, subject to the right of reasonable visitation by the Respondent.

X.

The parties are owners in joint tenancy of their homestead located at 7554 Homestead Avenue South in the City of Cottage Grove, County of Washington, State of Minnesota 55106, which is legally described as Lot 6, Block 1 Rolling Hills 5th Add. Petitioner shall assume the encumbrance on said homestead and shall pay the same according to its terms, and shall hold the Respondent harmless therefrom. Respondent will execute a quit claim deed to the Petitioner, within ten days after entry of the judgment and decree; but if such a document is not executed and delivered, this judgment and decree will operate as a conveyance.

XI.

The parties are owners of household furnishings and other personal property which has been satisfactorily divided between them, with the exception of Respondent's coin collection and pedal bike.

XII.

The parties are owners of various financial assets of value which have a market value that is presently unknown.

XIII.

The parties have incurred various debts, which have been satisfactorily divided between them, with the exception of the AT&T bill, which Petitioner has agreed to pay.

33-68-1
as amended by
order of
date

XIV.

Neither party is in the military service of the United States and so, accordingly, the Soldiers and Sailors Civil Relief Act of 1940, as amended, does not apply to this proceeding.

XV.

Petitioner is employed by Northwest Airlines as a Reservation Sales Agent. Petitioner's gross income is approximately \$408.40 per week and net income is approximately \$348.00 per week. Petitioner's monthly expenses are approximately \$1,640.00 per month. Respondent is employed by Applied Power and has gross income of approximately \$250.00 per week and net income of \$206.00 per week.

XVI.

Petitioner and Respondent are both able-bodied persons capable of earning sufficient income to support themselves.

VII.

The parties hereto have disclosed to one another all of their assets, both real and personal, and all of their income.

XVIII.

The Permanent Stipulation entered into by and between the parties, which is on file herein, is fair and reasonable, is supported by consideration, and contains full disclosure of each party's financial circumstances. The Permanent Stipulation contains a mutual waiver of maintenance. The Court finds that there is adequate consideration for said waiver, the consideration being the cash and assets received

by each party and the mutual promise to refrain from litigating maintenance claim. Said waiver is approved by the Court and incorporated in the Decree of Dissolution herein.

From the foregoing Findings of Fact, the Court makes the following:

CONCLUSIONS OF LAW

1. **Dissolution.** The bonds of matrimony heretofore existing between the Petitioner and the Respondent shall be dissolved.

2. **Custody.** Custody of the minor child of the parties, namely Amanda Jo Thayer, born January 30, 1987, shall be joint legal custody between the Petitioner and Respondent with Petitioner having primary physical custody and Respondent having reasonable visitation as follows:

- (a) Respondent shall have visitation on alternating weekends from 6:00 p.m. Friday to Monday morning.
- (b) Respondent shall also have visitation overnight one week-night per week. That overnight will be Tuesday one week, and alternate to Wednesday the next week, then back to Tuesday, etc. The time will be 5:00 p.m. to the following morning, when Respondent will drop Amanda off at daycare between 7:00 a.m. and 7:30 a.m.
- (c) Respondent will take Amanda to church each Sunday morning, whether or not he has other visitation that weekend. When Petitioner is not working on Sunday, Respondent will take Amanda to and from church, returning her after church to Petitioner's residence. When Petitioner is working on Sunday, Respondent will pick Amanda up at 9:00 a.m. at daycare. Petitioner will pick Amanda up after she has finished work, notifying Respondent of that time each week.
- (d) Both parties will be flexible in allowing for Amanda's activities.

- (e) Respondent shall provide Petitioner forty-eight (48) hours' notice if he is unable to make a scheduled visitation.
- (f) Reasonable and unrestricted phone access, at least once a day, shall be granted to both parties.
- (g) Holidays – will supersede the every other weekend schedule.

Thanksgiving – The parties will negotiate each year.

Christmas Eve – Always Petitioner.

Christmas Day – Always Respondent.

Easter – The parties will negotiate to divide the day. If Petitioner works, Amanda will spend the night with Respondent. Amanda will go to Respondent's at 8:00 p.m., and Petitioner will pick her up after work. If Respondent is not available, Petitioner will have Amanda.

Amanda will spend time with each parent on their respective birthdays.

The parties will alternate Amanda's birthday, beginning with Respondent in 1996.

Any disputes concerning custody and/or visitation shall be mediated by a mutually agreeable third-party private mediator, with the costs of such medication shared equally by the parties.

3. Child Support, Dependency Exemptions. Respondent shall pay to the Petitioner as and for permanent child support the sum of \$196.00 per month which is to be paid to Petitioner, beginning December 1, 1995, on the 1st day of each month commencing and continuing until said child becomes emancipated, marries, dies, or attains the age of 18, at which time such support shall terminate. If the child remains a student in high school upon her 18th birthday, said support shall

continue through her graduation from high school, but in no case longer than her 20th birthday. In addition, Respondent's first payment will be made on January 18, 1996, with payments thereafter to be in the amount of \$200 per month until such time as the amounts due at the time of the signing of this Stipulation have been paid; thereafter payments shall be in the amount of \$196 per month. Petitioner shall be entitled to claim the minor child as an exemption for income tax purposes, both State and Federal.

4. Appendix A. Pursuant to Rule 308.02 of the General Rules of Practice of the District Courts, Appendix "A" is attached hereto and made a part hereof by reference.

5. Insurance. Petitioner has medical insurance for the minor child through her employment. Petitioner shall cause such insurance, at her cost, to cover the minor child of the parties. In the event Petitioner's employment is terminated or in the event that Petitioner becomes ineligible for such coverage, Petitioner shall provide similar coverage for medical and hospitalization insurance through her employer. In the event that Petitioner has no such coverage available through her employer and Respondent does have such coverage available through his employer, Respondent shall provide medical and hospitalization insurance for the minor child through that employer-sponsored policy. In the unlikely event that neither Petitioner nor Respondent has coverage available through their respective employers, or neither Petitioner nor Respondent are employed, the parties shall approach the Court, which shall equitably apportion the necessary payments for

medical and hospitalization insurance for the minor child. The parties shall divide equally any medical, dental, or optical expenses for the minor child which are not covered by insurance. Respondent shall maintain the minor child as the primary beneficiary on the Respondent's life insurance, for so long as the child is eligible for child support. Each party shall be solely responsible for his or her own medical insurance and expenses.

6. Maintenance. Neither of the parties hereto shall be awarded spousal maintenance, formerly known as alimony, either temporary or permanent, and they hereby voluntarily waive the same. Both parties agree that they are capable of self support. Both parties agree that there is adequate consideration for the waiver of maintenance, the consideration being the case and assets received by each party and their mutual promise to refrain from litigating maintenance claims. Both parties understand that no post-judgment motion for any maintenance may ever be brought, and that the court is divested of jurisdiction to hear any motion regarding maintenance.

7. Homestead. The Petitioner is awarded the entire right, title, interest and equity in and to the homestead of the parties, located in Washington County, Minnesota, being legally described as: Lot 6, Block 1 Rolling Hills 5th Add., free and clear of any claim on the part of the Respondent. Petitioner shall assume the encumbrance on said homestead and shall pay the same according to its terms, and shall hold the Respondent harmless therefrom. The Respondent will execute a quitclaim deed to the Petitioner, within ten days after entry of the judgment and

Para # 1 amended by
9-29-99
order of _____

decree; but if such a document is not executed and delivered, this judgment and decree will operate as a conveyance.

8. Personal Property and Household Goods. All items of personal property of the parties including household goods, furniture, furnishings, equipment, linens, kitchen utensils and other items of household personal property have been divided between the parties, with the exception that Petitioner shall return to Respondent, within ten days after entry of the Judgment and Decree, his coin collection and pedal bike.

9. Cash, Accounts, Securities. Each party shall be awarded such cash, checking accounts, savings accounts, and other securities as is presently held in his or her own name without any claim thereto on the part of the other.

10. Pension, Profit Sharing, Retirement Plans. Petitioner and Respondent herein specifically waive any and all right or entitlement to any deferred compensation, pension, profit sharing or other like benefits available to the other as well as any claim to such amount which the other may receive by will, bequest, or otherwise from any source.

11. Petitioner's Vehicle. Petitioner is awarded the entire right, title, interest and equity in and to the 1979 Harley Davidson Sportster of the parties and the Petitioner shall be responsible for any encumbrance on said vehicle, and further the Petitioner shall be responsible for all costs relating to maintenance, operation and insurance of said vehicle and shall hold the Respondent harmless therefrom.

Respondent has first option to buy said vehicle at the original purchase price should Petitioner decide to sell.

12. Respondent's Vehicle. Respondent is awarded the entire right, title, interest and equity in and to the 1975 Harley Davidson Electric Glide and a 1986 Ford Ranger pickup of the parties, and the Respondent shall be responsible for any encumbrance on said vehicle, and further the Respondent shall be responsible for all costs relating to maintenance, operation, and insurance of said vehicle and shall hold the Petitioner harmless therefrom.

13. Petitioner's Debts. Petitioner shall pay all debts currently in her own name solely, and shall hold Respondent harmless therefrom. Petitioner shall also pay the full amount of the parties' AT&T bill.

14. Respondent's Debts. Respondent shall pay all debts currently in his own name solely, and shall hold Petitioner harmless therefrom.

15. Both Parties to Cooperate. Both parties shall execute whatever documents are necessary to effectuate the purposes of this Judgment and Decree of dissolution of the marriage herein, including but not limited to documents of conveyance and bills of sale. In the event a party fails to execute any such documents, the Judgment and Decree to be entered herein shall suffice to convey the relevant interest as if the party had executed any such document, without further order of the Court. The failure of either party to execute a required document shall not affect the vesting of title of the property in question pursuant to this Permanent Stipulation, and the Judgment and Decree.

16. Service of Decree. Service of the Judgment and Decree of dissolution of marriage to be entered herein shall be accomplished by mailing one conformed copy of said Decree to the Respondent. Said service shall constitute due and proper service of the Judgment and Decree upon the Respondent for all purposes.

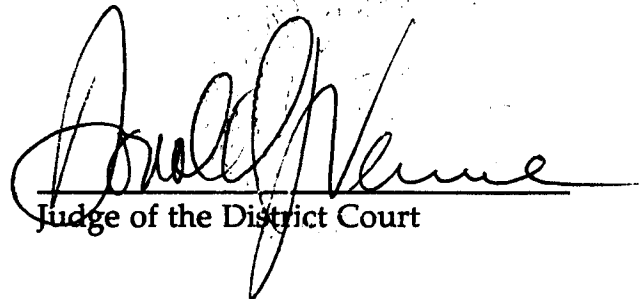
17. Neither party is awarded spousal maintenance, and neither party shall have any further claim of any kind or character against the other party arising out of the marital relationship of the parties.

18. Stephen W. Shaughnessy, Esq., and Shaughnessy, Warren & Shaughnessy, P.A. shall be released as attorneys of record for Petitioner ninety-one (91) days after filing proof of service of Notice of Entry of the Judgment and Decree.

Carol A. Peterson, Esq., and Dorsey & Whitney P.L.L.P. shall be released as attorneys of record for Respondent ninety-one (91) days after proof of service of Notice of Entry of the Judgment and Decree is filed.

IT IS SO ORDERED.

Dated: 1-25-96


Judge of the District Court

The above Order Amending the Judgment and Decree of Dissolution constitutes an amendment to the Judgment and Decree.

MARIE SUNLITIS
COURT ADMINISTRATOR

Dated: 1-25-96

BY Bence Larson
Deputy

APPENDIX A

NOTICE IS HEREBY GIVEN TO THE PARTIES:

I. PAYMENTS TO PUBLIC AGENCY. PURSUANT TO MINNESOTA STATUTES, SECTION 518.551, SUBDIVISION 1, PAYMENTS ORDERED FOR MAINTENANCE AND SUPPORT MUST BE PAID TO THE PUBLIC AGENCY RESPONSIBLE FOR CHILD SUPPORT ENFORCEMENT AS LONG AS THE PERSON ENTITLED TO RECEIVE THE PAYMENTS IS RECEIVING OR HAS APPLIED FOR PUBLIC ASSISTANCE OR HAS APPLIED FOR SUPPORT AND MAINTENANCE COLLECTION SERVICES. MAIL PAYMENTS TO: WASHINGTON COUNTY COMMUNITY SERVICES, IV-D UNIT, P O BOX 6, STILLWATER MINNESOTA 55082.

II. DEPRIVING ANOTHER OF CUSTODIAL OR PARENTAL RIGHTS – A FELONY. A PERSON MAY BE CHARGED WITH A FELONY WHO CONCEALS A MINOR CHILD OR TAKES, OBTAINS, RETAINS, OR FAILS TO RETURN A MINOR CHILD FROM OR TO THE CHILD'S PARENT (OR PERSON WITH CUSTODIAL OR VISITATION RIGHTS), PURSUANT TO MINNESOTA STATUTES, SECTION 609.26. A COPY OF THAT SECTION IS AVAILABLE FROM ANY COURT ADMINISTRATOR.

III. RULES OF SUPPORT, MAINTENANCE, VISITATION.

- A. Payment of support or spousal maintenance is to be as ordered, and the giving of gifts or making purchases of food, clothing, and the like will not fulfill the obligation.
- B. Payment of support must be made as it becomes due, and failure to secure or denial of rights of visitation is NOT an excuse for nonpayment, but the aggrieved party must seek relief through a proper motion filed with the court.
- C. Nonpayment of support is not grounds to deny visitation. The party entitled to receive support may apply for support and collection services, file a contempt motion, or obtain a judgment as provided in Minnesota Statutes, section 548.091.
- D. The payment of support or spousal maintenance takes priority over payment of debts and other obligations.
- E. A party who accepts additional obligations of support does so with the full knowledge of the party's prior obligation under this proceeding.
- F. Child support or maintenance is based on annual income, and it is the responsibility of a person with seasonal employment to budget income so that payments are made throughout the year as ordered.
- G. If there is a layoff or pay reduction, support may be reduced as of the time of the layoff or reduction if a motion to reduce the support is served and filed with the court at that time, but any such reduction must be ordered by the court. The court is not permitted to reduce support retroactively, except as provided in Minnesota Statutes, section 518.64, subdivision 2, part (c).

IV. PARENTAL RIGHTS FROM MINNESOTA STATUTES, SECTION 518.17, SUBDIVISION 3. UNLESS OTHERWISE PROVIDED BY THE COURT:

- A. Each party has the right of access to, and to receive copies of, school, medical, dental, religious training, and other important records and information about the minor children. Each party has the right of access to information regarding health or dental insurance available to the minor children. Presentation of a copy of this order to the custodian of a record or other information about the minor children constitutes sufficient authorization for the release of the record or information to the requesting party.
- B. Each party shall keep the other informed as to the name and address of the school of attendance of the minor children. Each party has the right to be informed by school officials about the children's welfare, educational progress and status, and to attend school and parent teacher conferences. The school is not required to hold a separate conference for each party.
- C. In case of an accident or serious illness of a minor child, each party shall notify the other party of the accident or illness, and the name of the health care provider and the place of treatment.
- D. Each party has the right of reasonable access and telephone contact with the minor children.

V. WAGE AND INCOME DEDUCTION OF SUPPORT AND MAINTENANCE. CHILD SUPPORT AND / OR SPOUSAL MAINTENANCE MAY BE WITHHELD FROM INCOME, WITH OR WITHOUT NOTICE TO THE PERSON OBLIGATED TO PAY, WHEN THE CONDITIONS OF MINNESOTA STATUTES, SECTIONS 518.611 AND 518.613, HAVE BEEN MET. A COPY OF THOSE SECTIONS IS AVAILABLE FROM ANY COURT ADMINISTRATOR.

VI. CHANGE OF ADDRESS OR RESIDENCE. UNLESS OTHERWISE ORDERED, THE PERSON RESPONSIBLE TO MAKE SUPPORT OR MAINTENANCE PAYMENTS SHALL NOTIFY THE PERSON ENTITLED TO RECEIVE THE PAYMENT AND THE PUBLIC AUTHORITY RESPONSIBLE FOR COLLECTION, IF APPLICABLE, OF A CHANGE OF ADDRESS OR RESIDENCE WITHIN 60 DAYS OF THE ADDRESS OR RESIDENCE CHANGE.

VII. COST OF LIVING INCREASE OF SUPPORT AND MAINTENANCE. CHILD SUPPORT AND / OR SPOUSAL MAINTENANCE MAY BE ADJUSTED EVERY TWO YEARS BASED UPON A CHANGE IN THE COST OF LIVING (USING THE U.S. DEPARTMENT OF LABOR, BUREAU OF LABOR STATISTICS, CONSUMER PRICE INDEX MPLS. ST. PAUL, FOR ALL URBAN CONSUMERS (CPI-U), UNLESS OTHERWISE SPECIFIED IN THIS ORDER) WHEN THE CONDITIONS OF MINNESOTA STATUTES, SECTION 518.641, ARE MET. COST OF LIVING INCREASES ARE COMPOUNDED. A COPY OF MINNESOTA STATUTES, SECTION 518.641, AND FORMS NECESSARY TO REQUEST OR CONTEST A COST OF LIVING INCREASE ARE AVAILABLE FROM ANY COURT ADMINISTRATOR.

VIII. JUDGMENTS FOR UNPAID SUPPORT; INTEREST. PURSUANT TO MINNESOTA STATUTES, SECTION 548.091:

- A. If a person fails to make a child support payment, the payment owed becomes a judgment against the person responsible to make the payment by operation of law on or after the date the payment is due, and the person entitled to receive the payment or the public agency may obtain entry and docketing of the judgement without notice to the person responsible to make the payment.
- B. Interest begins accruing on a payment or installment of child support whenever the unpaid amount due is greater than the current support due.

IX. JUDGMENTS FOR UNPAID MAINTENANCE. A JUDGMENT FOR UNPAID SPOUSAL MAINTENANCE MAY BE ENTERED WHEN THE CONDITIONS OF MINNESOTA STATUTES, SECTION 548.091, ARE MET. A COPY OF THAT SECTION IS AVAILABLE FROM ANY COURT ADMINISTRATOR.

X. ATTORNEY FEES AND COLLECTION COSTS FOR ENFORCEMENT OF CHILD SUPPORT. A JUDGMENT FOR ATTORNEY FEES AND OTHER COLLECTION COSTS INCURRED IN ENFORCING A CHILD SUPPORT ORDER WILL BE ENTERED AGAINST THE PERSON RESPONSIBLE TO PAY SUPPORT WHEN THE CONDITIONS OF MINNESOTA STATUTES, SECTION 518.14, SUBDIVISION 2, ARE MET. A COPY OF THAT SECTION AND FORMS NECESSARY TO REQUEST OR CONTEST THESE ATTORNEY FEES AND COLLECTION COSTS ARE AVAILABLE FROM ANY COURT ADMINISTRATOR.

XI. CAPITAL GAIN ON SALE OF PRINCIPAL RESIDENCE. INCOME TAX LAWS REGARDING THE CAPITAL GAIN TAX MAY APPLY TO THE SALE OF THE PARTIES' PRINCIPAL RESIDENCE AND THE PARTIES MAY WISH TO CONSULT WITH AN ATTORNEY OR TAX ADVISOR CONCERNING THE APPLICABLE LAWS. THESE LAWS MAY INCLUDE, BUT ARE NOT LIMITED TO, THE EXCLUSION AVAILABLE ON THE SALE OF A PRINCIPAL RESIDENCE FOR THOSE OVER A CERTAIN AGE UNDER SECTION 121 OF THE INTERNAL REVENUE CODE OF 1986, OR OTHER APPLICABLE LAW.

STATE OF MINNESOTA
COUNTY OF WASHINGTON

DISTRICT COURT
TENTH JUDICIAL DISTRICT

In Re the Marriage of:

Kristen Lee Thayer,

Petitioner,

and

Bradley Ryan Thayer,

Respondent.

FAMILY COURT DIVISION
Court File No.: F5-95-4500
Judge Stephen L. Muehlberg

**FINDINGS OF FACT
AND ORDER**

This matter came on for a hearing before the Honorable Stephen L. Muehlberg at the Washington County District Court on July 12, 2002.

Petitioner appeared personally and was represented by her attorney, John C. Gunderson, Meier, Kennedy & Quinn, Chartered, 445 Minnesota Street Suite 2200, St. Paul, MN 55101.

Respondent appeared personally and was represented by his attorney, Amy L. Senn, Amy L. Senn, P.A. 7200-80th Street South, Cottage Grove, MN 55016.

Based upon all of the records and files herein, and being fully advised of the premises the court hereby makes the following:

FINDINGS OF FACT

1. The court finds that Respondent has a net monthly income of \$3,130⁷ and
Petitioner has a net monthly income of \$1751.46.

2. The court further finds that Petitioner is in need of child support for the minor child Amanda Jo Thayer


3. There are no extraordinary circumstances under Minn. Stat. § 518.551 Subd. (c) that would justify a downward deviation of child support. Application of the child support guidelines is appropriate.

4. Respondent failed to answer Petitioner's discovery requests and contributed to the length and costs of these proceedings by failing to cooperate with the custody evaluation. Petitioner has limited ability to pay attorneys fees and Respondent has the ability to assist with payment of Petitioner's attorneys fees.

5. Petitioner has been unable to bring the minor child to a dentist because Respondent has failed to provide any insurance coverage information for the minor child to Petitioner.

IT IS HEREBY ORDERED:

1. Respondent's motion for a downward deviation of child support is hereby denied.

 2. As and for support of the minor child Amanda Jo Thayer, Respondent shall pay to Petitioner the amount of \$793.02 per month payable in equal installments corresponding with Respondent's paydays. Child support shall continue at that rate, as adjusted by the cost of living until the child attains the age of 18 or until the child while, under age 20 is still attending secondary school or until the child is otherwise emancipated, legally self-supporting, married, in the armed services of the United States, deceased or until further order of the court, whichever first occurs.

3. WAGE WITHHOLDING.

All child support payment shall be withheld from the wages, salary and income of the Respondent by his employer or other payor, and any future employer or payor and shall be

remitted by it to the appropriate welfare department or child support enforcement agency, which shall forward the child support payment to Petitioner.

4. APPENDIX A. The provisions of Appendix A attached hereto are incorporated herein by reference.

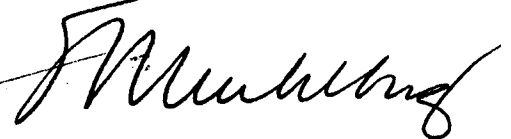
5. Respondent shall make payments to Petitioner in the amount of \$2,000.00 as payment for her attorneys fees incurred in this matter.

6. Respondent shall immediately provide Petitioner with all available medical coverage information and shall update this information as necessary including insurance cards, provider books, and policies.

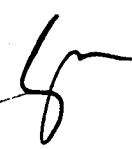
LET JUDGMENT BE ENTERED ACCORDINGLY.

Aug. 13, 2002

BY THE COURT



Stephen L. Muehlberg
Judge of District Court

File #
V-3-00000
DISTRICT
AUG
CLERK
OC
By 

FORM 3. APPENDIX A

NOTICE IS HEREBY GIVEN TO THE PARTIES:

I. PAYMENTS TO PUBLIC AGENCY. According to Minnesota Statutes, section 518.551, subdivision 1, payments ordered for maintenance and support must be paid to the Minnesota child support payment center as long as the person entitled to receive the payments is receiving or has applied for public assistance or has applied for support and maintenance collection services. Parents mail payments to: P.O. Box 64326, St. Paul, MN 55164-0326. Employers mail payments to: P.O. Box 64306, St. Paul, MN 55164.

II. DEPRIVING ANOTHER OF CUSTODIAL OR PARENTAL RIGHTS -- A FELONY. A person may be charged with a felony who conceals a minor child or takes, obtains, retains, or fails to return a minor child from or to the child's parent (or person with custodial or parenting time rights), according to Minnesota Statutes, section 609.26. A copy of that section is available from any court administrator.

III. NONSUPPORT OF A SPOUSE OR CHILD -- CRIMINAL PENALTIES. A person who fails to pay court-ordered child support or maintenance may be charged with a crime, which may include misdemeanor, gross misdemeanor, or felony charges, according to Minnesota Statutes, section 609.375. A copy of that section is available from any district court clerk.

IV. RULES OF SUPPORT, MAINTENANCE, PARENTING TIME.

- A. Payment of support or spousal maintenance is to be as ordered, and the giving of gifts or making purchases of food, clothing, and the like will not fulfill the obligation.
- B. Payment of support must be made as it becomes due, and failure to secure or denial of parenting time is NOT an excuse for nonpayment, but the aggrieved party must seek relief through a proper motion filed with the court.
- C. Nonpayment of support is not grounds to deny parenting time. The party entitled to receive support may apply for support and collection services, file a contempt motion, or obtain a judgment as provided in Minnesota Statutes, section 548.091.
- D. The payment of support or spousal maintenance takes priority over payment of debts and other obligations.
- E. A party who accepts additional obligations of support does so with the full knowledge of the party's prior obligation under this proceeding.
- F. Child support or maintenance is based on annual income, and it is the responsibility of a person with seasonal employment to budget income so that payments are made throughout the year as ordered.
- J. If the obligor is laid off from employment or receives a pay reduction, support may be reduced, but only if a motion to reduce the support is served and filed with the court. Any reduction will take effect only if ordered by the court and may only relate back to the time that the motion is filed. If a motion is not filed, the support obligation will continue at the current level. The court is not permitted to reduce support retroactively, except as provided in Minnesota Statutes, section 518.64, subdivision 2, paragraph (d).
- K. *A Parental Guide to Making Child-Focused Visitation Decisions* is available from any court administrator.
- L. The nonpayment of support may be enforced through the denial of student grants; interception of state and federal tax refunds; suspension of driver's, recreational, and occupational licenses; referral to the department of revenue or private collection agencies; seizure of assets, including bank accounts and other assets held by financial institutions; reporting to credit bureaus; interest charging, income withholding, and contempt proceedings; and other enforcement methods allowed by law.

V. PARENTAL RIGHTS FROM MINNESOTA STATUTES, SECTION 518.17, SUBDIVISION 3. UNLESS OTHERWISE PROVIDED BY THE COURT:

- A. Each party has the right of access to, and to receive copies of, school, medical, dental, religious training, and other important records and information about the minor children. Each party has the right of access to information regarding health or dental insurance available to the minor children. Presentation of a copy of this order to the custodian of a record or other information about the minor children constitutes sufficient authorization for the release of the record or information to the requesting party.

- B. Each party shall keep the other informed as to the name and address of the school of attendance of the minor children. Each party has the right to be informed by school officials about the children's welfare, educational progress and status, and to attend school and parent teacher conferences. The school is not required to hold a separate conference for each party.
- C. In case of an accident or serious illness of a minor child, each party shall notify the other party of the accident or illness, and the name of the health care provider and the place of treatment.
- D. Each party has the right of reasonable access and telephone contact with the minor children.

VI. WAGE AND INCOME DEDUCTION OF SUPPORT AND MAINTENANCE. Child support and / or spousal maintenance may be withheld from income, with or without notice to the person obligated to pay, when the conditions of Minnesota Statutes, section 518.6111, have been met. A copy of that section is available from any court administrator.

VII. CHANGE OF ADDRESS OR RESIDENCE. Unless otherwise ordered, each party shall notify the other party, the court, and the public authority responsible for collection, if applicable, of the following information within ten days of any change: residential and mailing address, telephone number, driver's license number, social security number, and name, address, and telephone number of the employer.

VIII. COST OF LIVING INCREASE OF SUPPORT AND MAINTENANCE. Child support and / or spousal maintenance may be adjusted every two years based upon a change in the cost of living (using the u.s. department of labor, bureau of labor statistics, consumer price index Mpls. St. Paul, for all urban consumers (CPI-U), unless otherwise specified in this order) when the conditions of Minnesota Statutes, section 518.641, are met. Cost of living increases are compounded. A copy of Minnesota Statutes, section 518.641, and forms necessary to request or contest a cost of living increase are available from any court administrator.

IX. JUDGMENTS FOR UNPAID SUPPORT; INTEREST. ACCORDING TO MINNESOTA STATUTES, SECTION 548.091:

- A. If a person fails to make a child support payment, the payment owed becomes a judgment against the person responsible to make the payment by operation of law on or after the date the payment is due, and the person entitled to receive the payment or the public agency may obtain entry and docketing of the judgement without notice to the person responsible to make the payment.
- B. Interest begins accruing on a payment or installment of child support whenever the unpaid amount due is greater than the current support due.

X. JUDGMENTS FOR UNPAID MAINTENANCE. A judgment for unpaid spousal maintenance may be entered and docketed when the conditions of Minnesota Statutes, section 548.091, are met. A copy of that section is available from any court administrator.

XI. ATTORNEY FEES AND COLLECTION COSTS FOR ENFORCEMENT OF CHILD SUPPORT. A judgment for attorney fees and other collection costs incurred in enforcing a child support order will be entered against the person responsible to pay support when the conditions of Minnesota Statutes, section 518.14, subdivision 2, are met. A copy of that section and forms necessary to request or contest these attorney fees and collection costs are available from any court administrator.

XII. PARENTING TIME EXPEDITOR PROCESS. On request of either party or on its own motion, the court may appoint a parenting time expeditor to resolve parenting time disputes under Minnesota Statutes, section 518.1751. A copy of that section and a description of the expeditor process is available from any court administrator.

XIII. PARENTING TIME REMEDIES AND PENALTIES. Remedies and penalties for wrongful denial of parenting time are available under Minnesota Statutes, section 518.175, subdivision 6. These include compensatory parenting time; civil penalties; bond requirements; contempt; and reversal of custody. A copy of that subdivision and forms for requesting relief are available from any court administrator.

STATE OF MINNESOTA
COUNTY OF WASHINGTON

DISTRICT COURT
FAMILY DIVISION
TENTH JUDICIAL DISTRICT

In Re the Marriage of:

KRISTEN LEE THAYER,

Petitioner,

And

BRADLEY RYAN THAYER,

Respondent.

JUDGMENT

This matter came on for Administrative hearing before the Honorable Stephen L. Muehlberg, Judge of the above-named Court, at the Washington County Government Center, Stillwater, Minnesota, on November 7, 2003.

No appearances.

Based upon all of the files and records herein, the Court made its order.

Now Therefore Pursuant to said Order specifically paragraph 1 of said Order;

IT IS HEREBY ADJUDGED DETERMINED AND DECREED:

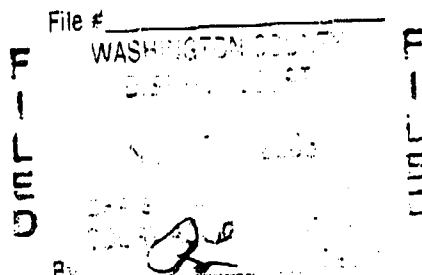
The petitioner is awarded a judgment against the respondent in the amount of \$2000.00 as payment for her attorney fees incurred in this matter.

Dated: November 7, 2003

BY THE COURT
CHRISTINA M. VOLKERS
COURT ADMINISTRATOR

By Bence Larson
Deputy

EXHIBIT C



**UNITED STATES BANKRUPTCY COURT — DISTRICT OF MINNESOTA
LOCAL ADVERSARY PROCEEDING COVER SHEET**

ADVERSARY PROCEEDING NUMBER (COURT USE ONLY)

PLAINTIFFS (Name and address)

Kristen Thayer
~~2002 Clark Street~~
~~Maplewood, MN 55117~~

411 Morton St. W
St. Paul MN 55107

DEFENDANTS (Name and address)

Bradley Thayer and Judith Thayer
9337 Jarrod Avenue South
Cottage Grove, MN 55016-5003

ATTORNEYS (Name, firm name, address, telephone)

pro se

ATTORNEYS (Name, firm name, address, telephone)

Karl A. Oliver
1936 W County Road B2, Suite 415
Roseville, MN 55113

PARTY (Check one box only)

☐ 1 U.S. PLAINTIFF

☐ 2 U.S. DEFENDANT

☒ 3 U.S. NOT A PARTY

NATURE OF SUIT (Check ALL appropriate boxes.)

☒ 426 Complaint to determine dischargeability of one debt under § 523.

☐ 459 Notice Of Removal to remove this action to the Bankruptcy Court under § 1452.

☐ 424 Complaint to deny or revoke a discharge of all debts of the debtor under § 727.

☐ 454 Recover Money or Property

☐ 458 Sale of co-owner's interest

☐ 435 Determine Validity, Priority, or Extent of a Lien

☐ 455 Revoke confirmation of a Plan

☐ 434 Obtain an injunction

☐ 456 Declaratory judgment

☐ 457 Subordinate allowed claim

☐ 498 Other (specify)

CAUSE OF ACTION (IF UNCERTAIN ABOUT WHICH BOX TO CHECK, BRIEFLY STATE THE CAUSE OF ACTION AND THE STATUTE INVOLVED.)

ORIGIN OF PROCEEDINGS

☒ 1 Original Proceeding

☐ 2 Removed Proceeding

☐ 3 Reinstated or Reopened

☐ 4 Transferred from Another Bankruptcy Court

☐ CHECK IF THIS IS A CLASS ACTION

DEMAND

\$2,000.00

OTHER RELIEF SOUGHT

☐ JURY DEMAND

BANKRUPTCY CASE NUMBER 04-32735

DEBTOR Bradley Thayer and Judith Thayer

DISTRICT AND DIVISION IN WHICH CASE IS PENDING

NAME OF JUDGE GFK

RELATED ADVERSARY PROCEEDING (IF ANY)

PLAINTIFF

DEFENDANT

ADVERSARY PROCEEDING NUMBER

DISTRICT

DIVISIONAL OFFICE

NAME OF JUDGE

FILING FEE (Check one box only)

☒ FEE ATTACHED

☐ FEE NOT REQUIRED

☐ FEE DEFERRED

DATE

PRINT NAME
Kristin Thayer

SIGNATURE OF ATTORNEY (OR PLAINTIFF)

Kristin Thayer 8-5-04